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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,235	06/29/2001	Martin Hurich	10191/1839	9413
26646	7590	09/09/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			PORTKA, GARY J	
			ART UNIT	PAPER NUMBER
			2188	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary****Application No.**

09/896,235

**Applicant(s)**

HURICH, MARTIN

**Examiner**

Gary J Portka

**Art Unit**

2188

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1 and 4 were amended by Applicant. Claims 1-4 are pending.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 4 recite that the second subareas are in front of or behind each of the first subareas. Although it appears this is intended to signify that a second subarea may be before (relative to address), or after, a first subarea, since these are subareas of a "non-volatile memory area" the language appears to mean a physical are, for example on a chip layout. That is, Applicants amendment did not clarify Examiner's previous questions/concerns that the language might be interpreted as simply depicting the physical locations of the subareas on a device. Because the desired limitation intended to be covered by the claim language is indefinite and the metes and bounds of the claim cannot be determined, claims 1 and 4, and 2 and 3 which incorporate the limitations of claim 1, are rejected.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Sassa, U.S. Patent 6,144,607.

6. As to claims 1 and 4, Sassa discloses the invention recited as well as can be understood (see paragraph 112 rejection above), with method and controller for writing/erasing a non-volatile memory (22, Fig. 2, Figs. 3A and 3B), writing a release pattern (end flag) after error-free writing, and writing an invalidity pattern (setting erase flag to erase state) prior to erase; the erase flags may be considered to be in front of or behind each of the end flags to the extent recited since through the plurality of pages shown in Fig. 3B and 3C, the erase flag of each page is in front of the end flag of each corresponding page (see Fig. 3C, col. 2 lines 4-16, col. 4 lines 59-67, and col. 5 lines 1-63).

7. As to claim 2, the patterns (flags) may be considered to not correspond to the contents of the erased modules.

8. As to claim 3, the erase flag would be read as recited since it's purpose is to note an area that is being erased (and thus cannot be read).

### ***Response to Arguments***

9. Applicant's arguments filed July 2, 2004 have been fully considered but they are not persuasive. It is first acknowledged that in response to the objections regarding "release pattern" that the language may be simply interpreted as a marker that validates data. Applicants have argued that in Sassa the erase flag of a page is after the end flag

of the page before it but in front of the end flag on the same page, and thus is not in front of or behind each end flag. However as stated in the claim, "second subareas in front of or behind each of the first subareas" relates a plurality of items to another plurality, and may be interpreted as each second subarea in relation to each respective first subarea as stated in the rejection above. Further, even if the language "in front of or behind each" means that all of the second subareas are in front of or behind all of the first subareas, as an example some earlier page second subareas and some latter page first subareas may be selected to read on the claims.

#### ***Conclusion***


10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary J Portka whose telephone number is (703) 305-4033. The examiner can normally be reached on M-F 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (703) 306-2903. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gary J Portka  
Primary Examiner  
Art Unit 2188

September 5, 2004